

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

MONKEITH SHAROD TATUM §  
VS. § CIVIL ACTION NO. 1:08cv611  
JODY R. UPTON, ET AL. §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Monkeith Sharod Tatum, an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this civil rights suit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed without prejudice for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

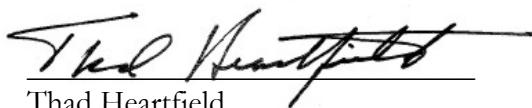
On December 9, 2008, plaintiff filed a motion in which he asserts he filed a motion to dismiss the action following the receipt of the Report. While no such motion appears on the docket, plaintiff's instant motion is liberally construed as a motion to

dismiss the action. Accordingly, plaintiff's motion will be dismissed without prejudice pursuant to FED. R. CIV. P. 41(a).

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

**SIGNED** this the 22 day of **January, 2009**.



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Thad Heartfield  
United States District Judge